



An
Bord
Pleanála

Inspector's Report ABP-314071-22

Development	Importation of materials for land reclamation and all associated site works. NIS and EIAR are included
Location	Boycetown, Dunsany, Co. Meath
Planning Authority	Meath County Council
Planning Authority Reg. Ref.	21/2179
Applicant(s)	Davin Plant Hire Ltd
Type of Application	Permission
Planning Authority Decision	Grant, subject to 13 conditions
Type of Appeal	Third Party -v- Decision
Appellant(s)	Gary Byrne & Others
Observer(s)	Robin Buckthrope
Date of Site Inspection	9 th January 2024
Inspector	Hugh D. Morrison

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1.0 Site Location and Description

- 1.1. The site is located in the countryside between Dunshaughlin and Trim and to the south-west of the village of Kiltale, which lies on the R154. This site lies within the townland of Boycetown, and it is accessed off the L-6202-3, which runs west and south from Kiltale.
- 1.2. The site comprises fields or portions of fields, which are in agricultural use. It is relatively level, with the lowest portions exhibiting poor drainage. This site is amorphous, and it extends over 5.6 hectares. The perimeter of the main body of the site is largely defined by existing hedgerows and wet ditches. These features also occur within the main body of the site. The tail of the site is a strip of land, which runs beside an existing field boundary to connect with an existing gated access point from the local road.

2.0 Proposed Development

- 2.1. Under the proposal, topsoil, soil, and stone would be imported to the site for the purpose of land reclamation for a beneficial agricultural after-use. These materials would also be used, as appropriate, in landscaping and the provision of an access track. In total, 200,000 tonnes of these materials would be imported over a five-year period, i.e., 40,000 tonnes per annum. This total would disaggregate as follows: 160,000 tonnes of stone and soil, 30,000 tonnes of top-soil, and 10,000 tonnes of Article 27 materials.
- 2.2. Under the proposal, the site would operate between 07:00 and 18:00 hours on weekdays, and between 08:00 and 14.00 hours on Saturdays. It would be closed on Sundays and public holidays.
- 2.3. Operational traffic would be generated by the proposal. Thus, 9 no. HGV trips daily are envisaged.
- 2.4. Ancillary structures would be installed to serve the land reclamation project. Thus, in addition to the access track, a temporary weighbridge and wheel wash would be installed. (The wheel wash would be served by a water recycling tank). Portacabins would be sited in the south-western corner of the site to provide an office, canteen, and toilets. (The toilets would be served by a self-contained effluent holding tank).

These portacabins would be accompanied by a temporary staff parking area. Settlement tanks, too, would be laid in the eastern portion of the site.

2.5. The project would require a waste permit from Meath County Council.

3.0 **Planning Authority Decision**

3.1. **Decision**

Following receipt of further information, permission was granted, subject to 13 conditions.

3.2. **Planning Authority Reports**

3.2.1. Planning Reports

The following further information was requested by the PA:

- An Arboricultural Impact Assessment,
An Amphibian Survey, and
A Construction Environmental Management Plan.

The applicant submitted the above cited documents, and the PA considered them to be satisfactory.

- A comprehensive response to the HSE(EHS)'s commentary.

The HSE(EHS) responded to this response by delineating several outstanding issues, which the PA concluded could be dealt with under a waste facility permit.

- Provision of satisfactory northern sightline, which would entail setting back c. 40m stretch of boundary treatment by a distance of 3m from the edge of the carriageway.

The applicant agreed to this request.

- Presentation of reasonable alternative locations for the proposal.

The applicant outlined the positive case for its site selection. The PA accepted this case.

- A topographical site survey.

The applicant drew attention to the submission of this survey as part of its original application.

- In the light of the site's wetland status (cf. Map of Irish Wetlands, which shows the site as lying within lacustrine sediments), assessments of the proposal to be revisited.

The applicant contested the description of the site as wetlands, as it is composed mainly of grasslands, which were drained under the 1945 Boyne arterial drainage scheme. The resulting drainage ditch and channels continue to be maintained. Under the proposal, water settlement ponds would promote biodiversity. The PA accepted the applicant's rebuttal.

- In the light of the overhead lines that cross the site, demonstration of safe operating procedures.

The applicant advises that the overhead lines would be rerouted.

- Anticipated quantities of soil, stone, and Article 27 material to be stated.

The applicant reports that 160,000 tonnes of soil and stone would be imported, less than 10,000 tonnes of Article 27 material, and 30,000 tonnes of top-soil.

- Local sources of materials to be identified, along with the quantities of such materials.

The applicant lists plenty of sites with extant permissions for medium/large scale development in surrounding towns.

- No direct impact of groundwater assertion to be revisited.

The applicant reasserts that groundwater would not be directly impacted, and proposed mitigation measures would safeguard surface waters.

- A comprehensive response to third party objectors.

The applicant engages with objectors' concerns.

3.2.2. Other Technical Reports

- Irish Water: No objection, subject to standard conditions.

- HSE(EHS): Detailed commentary on proposal provided. Following receipt of further information, outstanding issues related to the proposed water supply, the implementation of waste acceptance procedures, and additional noise monitoring at NSL R2. PA considers that these matters can be addressed under an application for a waste facility permit.
- Meath County Council:
 - Environment: Following receipt of further information, no objection, subject to conditions.
 - Water services: No objection, subject to standard conditions.
 - Architectural Conservation: No comments.
 - Transportation: Following receipt of further information, no objection, sightline, special contribution, HCV cap, and haul route conditions requested.

3.3. Prescribed Bodies

- DoHLGH:
 - Archaeology: No objection, standard condition requested.
 - Nature conservation: Further information requested.

3.4. Third Party Observations

See grounds of appeal.

4.0 Planning History

- TA201666: Similar proposal to the current one: Subject of request for further information, none forthcoming and so application deemed to be withdrawn.
- 21/447: Retention of existing gated access to the site: Permitted, subject to conditions, including one, denoted as Condition No. 2, which requires the gate piers and gate to be recessed, and sightlines (2.4m x 90m) to be provided.

5.0 Policy Context

5.1. National and Regional Planning Policies

National Planning Framework

NPO 56: Sustainably manage waste generation, invest in different types of waste treatment and support circular economy principles, prioritising prevention, reuse, recycling and recovery, to support a healthy environment, economy and society.

Eastern-Midlands Region: Waste Management Plan 2015 – 21, which is due to be replaced by the National Waste Management Plan for a Circular Economy.

5.2. Development Plan

Under the Meath County Development Plan 2021 – 2027 (CDP), the site is shown as lying within a rural area within the County's Central Lowlands, a landscape of high value and moderate sensitivity.

Under Section 6.17 of the CDP, waste management is addressed. The following infrastructure objectives are of relevance to the current proposal:

INF OBJ 55: To facilitate the provision of appropriate waste recovery and disposal facilities in accordance with the principles set out in the appropriate Waste Management Plan applicable from time to time made in accordance with the Waste Management Act 1996 (as amended).

INF OBJ 59: To seek to ensure, in cooperation with relevant authorities, that waste management facilities are appropriately managed and monitored according to best practice to maximise efficiencies to protect human health and the natural environment.

Under Section 6.11 of the CDP, water quality is addressed. The following infrastructure policy and objective are of relevance to the current proposal:

INF POL 32: To ensure...the protection and improvement of all drinking water, surface water and ground waters throughout the County.

INF OBJ 29: To strive to achieve 'good status' in all water bodies in compliance with the Water Framework Directive...

5.3. Natural Heritage Designations

- River Boyne and River Blackwater SAC (002299)
- River Boyne and River Blackwater SPA (004232)

5.4. EIA Screening

The applicant has submitted an EIAR. It appears to have done so on the basis that, under Item 11(b) of Part 2 of Schedule 5 to Article 93 of the Planning and Development Regulations, 2001 – 2023, an EIAR is mandatory if the annual intake of waste for disposal would be greater than 25,000 tonnes. Under the proposal, such intake would be 40,000 tonnes annually, and so an EIAR is needed.

6.0 The Appeal

6.1. Grounds of Appeal

(a) Sustainability

- The applicant has not justified its selection of the site for landfill.
- Attention is drawn to permission (TA16/068 & PL17.247792) for a landfill project 1km to the south of the site, and to an adjacent quarry, which would afford a landfill opportunity in the future.
- The view is expressed that quarries should be used for landfill as a means of restoring them. A quarry in Gormanstown is cited in this respect.
- While the applicant refers to drawing materials from surrounding towns in Meath, in practise, they are likely to come from the Greater Dublin Area (GDA), thereby generating unsustainably long journeys. The GDA is in a different waste management region from Meath.

(b) Traffic, amenity, and ecology

- Attention is drawn to the local road, which serves the site. To the north-east, this road is lined by dwelling houses and the local national school, as it passes through Kiltale. It is of narrow width, e.g., HGVs travelling in opposite directions are unable to pass one another, and, over a 9-month period, three

collisions have been recorded. The proposal would receive 15 loads daily, i.e., 30 vehicle movements or, over an 8-hour day, c. 4 hourly. A RSA should therefore have been undertaken.

- The quarry to the south, generates HGV traffic. The applicant should, therefore, have assessed the cumulative impact of traffic generated by its proposal by means of a TIA.
- The impact of traffic generation upon humans has not been adequately addressed in the EIAR. Specifically, the environmental impacts of noise and dust generated by passing HGVs upon local residents.
- Attention is drawn to McCormick's fruit and vegetable farm to the south of the site, which is a major local employer, and yet it is not identified as a sensitive receptor in the EIAR.
- Attention is drawn to applications (TA19/0942 & TA19/1344) for one-off dwelling houses along the local road, which were refused on the grounds of traffic hazard.
- The view is expressed that the existing entrance to the site is unauthorised.
- The PA's permission is critiqued: Condition No. 3 would entail the unacknowledged removal of an antique roadside pump, and Condition No. 13 would entail the payment of a wholly inadequate special contribution.
- The appellant's surveyor presents an assessment of the proposal, which concludes that the amount of material needed to fill the site would be far less than that envisaged under the current application.
- The appellant's ecologist confirms his sighting of a kingfisher (Annex 1 species under the Habitats Directive) along the Boycetown River adjacent to the site. Under the proposal, this River would receive surface water run-off from the site, which could contain elevated levels of suspended solids that would damage the feeding grounds of the kingfisher. Neither the NIS nor the EIAR acknowledge the presence of this species, thus casting doubt on their conclusions/adequacy of their mitigation measures.

(c) Omissions from the drawings

- Specifically, a turlough to the south-west of the site has not been shown.
- Likewise, a bored well and an accompanying agricultural right of way are not shown.

(d) Alternative sites

- The applicant has not submitted any quantitative assessment of materials that would be sourced in the surrounding towns of Meath. The view is expressed that such materials over a 5-year period would not amount to 200,000 tonnes.
- Attention is drawn to a further landfill site 2km away at Warrenstown.
- Points raised under (a) above are reiterated.

(e) Other matters

- The steep sides proposed for the landfill do not suggest an agricultural after-use.
- The posting of further information on the PA's website was delayed to the disadvantage of third parties.

6.2. Applicant Response

(a) Distance to site

- The proposal is not for landfill, but soil recovery and land improvement in accordance with the circular economy.
- The GDA and Meath are within the same waste management region, i.e., the Eastern Midlands.
- The rapid growth of jobs and homes in the south-east of the County creates the need to manage excavated soils locally.
- The EPA's "Guidance on waste acceptance criteria at authorised soil recovery facilities" (2020) states that "Authorised soil recovery facilities are often worked out quarries that are in the process of being restored. They may also be sites where soil and stone are being imported to raise natural ground levels."

- Given the expense of haulage, there is an economic incentive to locate soil recovery facilities close to the markets that they serve. Such proximity also confers environmental benefits.
- The applicant expresses the view that the site would be ideal, i.e., it would be preferable to any other alternative site. It lists the advantages that would ensue under the proposed agricultural after-use.

(b) Traffic

- The local road is a well-established haul route for HGV traffic generated by quarries, horticultural enterprises, a compost facility, and land reclamation sites.
- The appellant's traffic objection is not borne out by relevant data. The applicant draws attention to its traffic surveys and subsequent analysis. These surveys ensured that the cumulative effect of existing usage was captured. Considerable spare capacity exists on the local road.
- The site entrance is authorised (21/1565) and its northern sightline would be improved. Elsewhere, the possibility of introducing passing places to ensure that HGVs travelling in opposite directions can be accommodated is discussed.

(c) Ecology

- The appellant's ecologist incorrectly describes the site as being adjacent to the Boycetown River. Drainage ditches, which follow a convoluted route, link the site to this River.
- Summer and winter surveys of the site, and a further one on 8th August 2022 did not identify any kingfishers on the site, and no evidence of their presence was detected, e.g., nests. The view is expressed that the smallness of the site compared to the catchments of the Boycetown and Boyne Rivers is such that its development as proposed would not have any significant impact upon kingfishers.
- The names and qualifications of those contributing to the NIS are cited.

(d) Topography

- The applicant contests the appellant's claim that features are missing from the submitted plans.

(e) County Development Plan

- The proposal would accord with INF OBJ 54, which advocates for a green circular economy, Section 6.17.3.3, which promotes reuse and recycling, Section 6.17.3.7, which specifically states that "an outlet is required for uncontaminated, non-hazardous soils, which are subject to export at present", and INF POL 70, which specifically encourages the recycling of construction and demolition waste.

6.3. Planning Authority Response

The PA states that, at the time of its decision, it was satisfied that the proposal, including the site selection, represented a sustainable form of development. The report of the appellant's ecologist only became available at the appeal stage, and so the Board is invited to fully consider the content and findings of this report.

6.4. Observations

Robin Buckthorpe of Boycetown House

- The proposal does not show how the wash effluent would reach the settlement ponds.
- The proposal does not show how the safety of the settlement ponds would be assured following the completion of development on the site.
- If the settlement ponds were to overflow, then spillage would be into a drainage ditch connected to the Boycetown River.
- The proposal would entail the importation of materials far above the amount that would be needed to secure the beneficial use of the site for agriculture.
- The site is presently a wildlife haven, from which gun owning hunters are precluded.

6.5. Further Responses

None

7.0 Planning Assessment

7.1. I have reviewed the proposal in the light of the National Planning Framework (NPF), the Meath County Development Plan 2021 – 2027 (CDP), relevant planning history, the submissions of the parties and the observer, and my own site visit. Accordingly, I consider that this application/appeal should be subject of a planning assessment, an EIA, and an AA. While the majority of the factors in need of attention will be considered under the second and third assessments, I will consider the following factors under the first assessment:

- (i) National and local planning advice and objectives,
- (ii) The description of the proposal, and
- (iii) Planning history.

(i) National and local planning advice and objectives

7.2. On page 3 of the EPA's document entitled "Guidance on Soil and Stone By-products in the context of Article 27 of the European Communities (Waste Directive) Regulations 2011" the following advice is given on what is regulated as waste:

Excess uncontaminated soil and stone produced during construction projects may be a waste if it is discarded, is intended to be discarded or is required to be discarded.

In the introduction to the EPA's document entitled "Guidance on waste acceptance criteria at authorised soil recovery facilities", it is acknowledged that, in addition to worked-out quarries, authorised soil recovery facilities can entail the importation of soil and stone to raise natural ground levels.

7.3. The proposal would be an example of a project that would entail the importation of excess uncontaminated soil and stone from construction sites for the purpose of raising the levels of the subject site in a bid to reclaim poorly drained land.

7.4. The NPF's National Planning Objective 56 supports circular economy principles that prioritise the prevention, reuse, recycling, and recovery of waste. In principle the proposal would further this objective.

- 7.5. Under Section 6.17 of the CDP, waste management is addressed. The following infrastructure objectives are of relevance to the current proposal:

INF OBJ 55: To facilitate the provision of appropriate waste recovery and disposal facilities in accordance with the principles set out in the appropriate Waste Management Plan applicable from time to time made in accordance with the Waste Management Act 1996 (as amended).

INF OBJ 59: To seek to ensure, in cooperation with relevant authorities, that waste management facilities are appropriately managed and monitored according to best practice to maximise efficiencies to protect human health and the natural environment.

- 7.6. With reference to “the appropriate waste management plan”, the Eastern-Midlands Region: Waste Management Plan 2015 – 21 is due to be replaced by the National Waste Management Plan for a Circular Economy. Under the heading of pre-draft consultation process on www.mywaste.ie one of the waste management challenges cited is “Prevention – continue the drive for reuse and prevention across all waste streams.” In principle the proposal would further the quest to reuse waste streams.
- 7.7. I conclude that, in principle, the proposal would further national and local planning advice and objectives that seek the reuse of waste materials.

(ii) The description of the proposal

- 7.8. The appellants draw attention to the stated purpose of the proposal, i.e., land reclamation. They express the view that this purpose could be achieved on the basis of a smaller scheme. Their surveyor has prepared a submission that illustrates their contention (Appendix 3 attached to the grounds of appeal). It outlines that, if instead of a maximum height of 3.1m a maximum height of 2m is specified for the land raising exercise, then only 94,000 tonnes of soil and stone would need to be imported. He/she also revises downwards the amount of top-soil and Article 27 materials that would be needed, i.e., from 30,000 tonnes to 7040 tonnes in the former case, and from 10,000 tonnes to 1150 tonnes in the latter case. The applicant has not engaged with this submission in its response to the grounds of appeal.
- 7.9. During my site visit, I observed that the proposed working area of the site, where soil and stone would be imported, is not consistently composed of poorly drained land. In this respect, Figure 6-2 of the EIAR, which depicts the habitats present on the site, shows wet grassland as occurring within the roughly triangular shaped southern/

central portion of the working area. This habitat is where the poorly drained land is concentrated. The northern portion of the working area, apart from its south-eastern corner, did not appear to be poorly drained, and so the need for its reclamation is not self-evident. The existing levels in the northern portion of the working area rise above 73m to 74.2m OD, and so they provide the rationale for the proposed finished levels of 74 – 74.6m OD for the proposal.

7.10. In the light of these considerations, I conclude that the applicant has not demonstrated that its proposal would be required to be as extensive in its footprint or as substantial in its height to achieve the stated objective of land reclamation.

(iii) Planning history

7.11. The appellant expresses the view that the site entrance is unauthorised. The applicant has responded by drawing attention to the retention permission, which was granted to 21/447, for this site entrance.

7.12. I note that, while the aforementioned retention permission authorises the site entrance in principle, Condition No. 2 requires the provision of sightlines (2.4m x 90m), and the setting back of the entrance piers by 3m and the gates themselves by 12m from the edge of the carriageway, in order to provide a truck refuge. During my site visit, I observed that this Condition has yet to be complied with.

7.13. I note, too, that, under the PA's Conditions Nos. 3 and 4 attached to its permission for the current application, a northern sightline would be required over the landowner's adjoining front garden, i.e., a depth of 3m from the edge of the carriageway over a distance of c. 40m, and the gates would be required to be recessed by 17m from the edge of the carriageway, in order to provide a HGV refuge.

7.14. In the light of the foregoing, if the Board is minded to grant, then the reattachment of Conditions Nos. 3 and 4 to any permission would, once implemented, effectively supersede Condition No. 2 attached to the retention permission.

7.15. The appellant critiques the PA's Condition No. 3 on the grounds that it would entail the loss of a historic roadside water pump. During my site visit, I observed that this pump is no longer in-situ. None of the parties have commented upon this situation.

- 7.16. The appellants also critique the PA's Condition No. 13, which requires the payment of a special contribution of €30,000 towards the repair of the L-6202 resulting from damage caused by HGV movements along it generated by the proposal. They express the view that this sum would be insufficient. However, under the provisions of Section 48(2)(c) of the Planning and Development Act, 2000 – 2023, the attachment of this condition would be inadmissible as it would not relate to specific exceptional infrastructure costs, which would benefit the development. Instead, the repairs cited would be covered by the Classes of Public Infrastructure cited under the PA's Development Contribution Scheme 2024 – 2029, i.e., "Roads and public transport infrastructure – to include the provision, refurbishment, upgrading, enlargement or replacement of roads..."
- 7.17. I conclude that, whereas the site entrance is in principle authorised, the manner of its retention is in breach of a key condition. Nevertheless, this breach would effectively be encompassed in the revisions to the site entrance that would be necessary to facilitate the current proposal.

8.0 Environmental Impact Assessment (EIA)

Introduction

- 8.1. I have carried out an examination of the information presented by the applicant, including his EIAR, and the submissions made during the course of the application and appeal. A summary of the results of the submissions made by the PA, appellants, and observer, has been set out at Section 6.0 of my report. The main issues raised, which are specific to the EIA, can be summarised as follows:

Reasonable alternatives

- (i) Landfill should occur in quarries.
- (ii) Unsustainable trips would be generated from the Greater Dublin Area.

(a) Land

N/a

(b) Population & human health

- (i) The neighbouring fruit and vegetable farm has not been identified as a sensitive receptor.
- (ii) The environmental impact of HGV traffic generated by the proposal would be unhealthy for local villagers.

(c) Biodiversity

- (i) The site is a wetlands.
- (ii) Water borne suspended solids from the site would pollute the Boycetown River network and pose a threat to wildlife.

(d) Soils and geology

N/a

(e) Water

- (i) Water borne suspended solids from the site would pollute the Boycetown River network.
- (ii) Overflow from the settlement ponds would be into the Boycetown River network.

(f) Climate

N/a

(g) Air quality

N/a

(h) Traffic

- (i) Cumulative traffic generation has been inadequately addressed.
- (ii) The local road is unsuitable to HGV traffic, and such traffic poses a risk to road safety and creates unhealthy environmental impacts.

(i) Noise and vibration

N/a

(j) Landscape and visual

N/a

(k) Archaeological/cultural heritage

N/a

Interactions

Post-development, the settlement ponds would pose a potential safety risk.

These issues are addressed below under the relevant headings, and as appropriate in the reasoned conclusion and recommendation.

- 8.2. I am satisfied that the EIAR has been prepared by competent experts to ensure its completeness and quality, and that the information contained in the EIAR and supplementary information provided by the developer, adequately identifies and describes the direct, indirect and cumulative effects of the proposal on the environment and complies with Article 94 of the Planning and Development Act, 2000 – 2023.

Reasonable alternatives

- 8.3. Under Section 3.6 of the EIAR the applicant addresses reasonable alternatives. It states that there is a critical need for soil recovery sites to serve the needs of the construction sector. If such sites are not forthcoming, then badly needed development maybe delayed. It also states that, apart from further land reclamation in the vicinity of the site, no reasonable alternative is identified.
- 8.4. The appellants express the view that soil and stone should be used to fill worked out quarries, such as the one in Gormanstown. The applicant has responded by quoting from the EPA's document cited under my planning assessment, which acknowledges that along with quarries land raising schemes are a suitable means of disposing of soil and stone from construction sites.
- 8.5. Under further information, the PA revisited the question of reasonable alternatives. The applicant responded by reiterating the positive case for its site selection. In this respect, emphasis is placed upon the proximity of the site to the rapidly growing towns in south-east Meath, and the benefits that accrue economically and environmentally from relatively short haul routes.

- 8.6. The applicant also emphasises that the reclaimed land would be returned to agricultural use with such usage being more productive than heretofore. The appellants draw attention to the steep sides that would be formed by the land raising scheme, and so they question whether an agricultural after use would actually ensue, i.e., it would be potentially hazardous to/impractical for livestock. In this respect, the submitted landscaping and restoration plan (drawing no. 190-2106) proposes a woodland and scrub mix for the mounds that would result. Such a plan would yield a woodland outcome, which would be consistent with the steep sides in a way that grazing land would not be.
- 8.7. Ultimately, the PA accepted the applicant's selected site. I recognise that, insofar as the proposal involves a land reclamation objective, it is site specific. I recognise, too, its proximity to the main growth towns in Meath. Accordingly, I, too, am prepared to accept its selection.

Vulnerability of the project to risks of major accidents and/or disasters

- 8.8. Under Section 3.5 of the EIAR the applicant addresses the vulnerability of the project to risks of major accidents and/or disasters. It draws attention to the inert nature of the materials that would be imported and the absence of any history of disasters on the site within its context. It also draws attention to the standard health and safety precautions and procedures that would be followed, including those that would intercept and quarantine any non-inert materials. The applicant concludes that the risk of accidents is therefore very low. I concur with this conclusion.

(a) Land

- 8.9. The main body of the site (5.2 hectares) would be raised in level by means of the importation of stone and soil. The poorly drained nature of the site would thereby be relieved, and the stripped topsoil would be stored and respread across the completed mound to allow a more productive use to ensue.
- 8.10. During the construction phase, work would take account of weather conditions, and it would cease during heavy rainfall, e.g., greater than 10mm in 24 hours.
- 8.11. The main mitigation measure would be the retention of hedgerows to the perimeter of the site, which would serve to screen the mound that would be formed.

8.12. I conclude that the improved productivity of the site would be a long-term slight beneficial impact on the land.

(b) Population and human health

8.13. Over the inter-census period of 2011 – 2016 the population of Meath grew by 5.8% and it has, subsequently, continued to grow. In 2016, the nearby village of Kiltale had a population of 600.

8.14. Under the proposal, 4 jobs would be directly created during the construction phase. Indirect work would, likewise, be generated for truck drivers and service providers.

8.15. The site is not close to any existing or proposed tourist attractions.

8.16. Traffic generated by the proposal would pass through Kiltale. While the volume of traffic would not be significant, the applicant undertakes to ensure that any accident risk is mitigated by adherence to a self-imposed speed limit of 30 kmph.

8.17. The appellants raise the issue of human health with respect to the environmental impact of traffic movements through the village and the proximity of McCormick's fruit and vegetable farm. In relation to the former, the absence of any significant increase in the volume of traffic movements is of relevance. In relation to the latter, dust would be the main potential issue, and the applicant addresses it under "air quality".

8.18. I conclude that the proposal would be of economic benefit in the employment that it would afford directly and indirectly.

(c) Biodiversity

8.19. The applicant's EIAR includes an Ecological Impact Assessment (EclA). This EclA identifies the habitats that are present on the site. These habitats comprise the following:

- Hedgerows/treelines: Along the site boundaries, where they are judged to be of local importance (higher value), and within the site, where they are judged to be of local importance (lower value). Under further information, the applicant submitted a tree survey, which identifies the species comprised in each hedgerow. This survey also evaluates the condition of each hedgerow, an evaluation which largely bears out the aforementioned distinction between higher and lower values.

- Improved grassland: The species comprised in this habitat are of local importance (low value).
- Wet grassland: This is a poorly drained area of the site, which comprises a mix of rush, grass, and herbaceous species. The EclA comments that “This habitat is well represented in the locality, and it is of medium biodiversity value. It provides a good source of nectar for pollinating insects.”

As it is identified on the Wetlands Surveys Map of Ireland, the appellants state that this habitat is a wetland. Under further information, the applicant addressed this claim by referring to how it is composed of lacustrine sediments, as distinct from being an identified wetland in the Wetlands Surveys Map of Ireland.

- Depositing lowland rivers: A drainage channel runs along the south-eastern boundary of the site. It forms a tributary of the Boycetown River, and its straight alignment downstream of the site indicates that it was part of the OPW’s historic arterial drainage works in the locality.

The drainage channel is accessible to livestock. While the applicant initially concluded that this habitat was of local importance only, under further information, it undertook a frog/newt survey, which identified two clumps of frog spawn in this channel. If construction phase activities were to occur in the vicinity of any frog spawn, then the applicant would apply for a licence to relocate it elsewhere.

8.20. The applicant reports sightings of fox and hare on the site, and it anticipates that other mammals maybe present, too. Hedgerows/treelines would be likely to be used by bats for foraging, although none of the mature trees presented as being potential roosts. The applicant also reports sightings of a variety of bird species, none of which are of conservation concern.

8.21. The appellants report that their ecologist witnessed a kingfisher on the Boycetown River to the north of the site. This species is a qualifying interest of the River Boyne and River Blackwater SPA. The applicant’s ecologist reports that, notwithstanding several site visits at different times of the year, he did not see this species on the site. I will discuss the kingfisher further under my AA.

- 8.22. The EclA lists the key ecological receptors as the drainage channel along the south-eastern boundary of the site, and the hedgerows/treelines around the perimeter of the site. I consider that within the site the wet grassland habitat is a key ecological receptor, too, given its medium biodiversity value.
- 8.23. Under the proposal, the drainage channel would be safeguarded and mitigation measures, outlined below under the heading of “Water”, would be implemented in a bid to protect water quality. The hedgerows/treelines of local importance (higher value) would be retained, augmented, and managed. The wet grassland would be lost. However, the proposed settlement ponds and swales would potentially, in time, provide mitigation in this respect.
- 8.24. The applicant concludes that the impacts arising upon biodiversity would be of low magnitude and of temporary/short-term duration. No significant impact would arise. I would qualify this conclusion by observing that the loss of the wet grassland would be permanent and of medium magnitude, and so it would be a significant effect¹. However, mitigation would, in principle, be afforded by the proposed settlement ponds and swales.

(d) Soils and geology

- 8.25. As noted above, the site is composed of lacustrine sediments, which are underlain by dark limestone and shale (“Calp”). Under the proposal, existing topsoil would be removed, and imported stone and soil would be placed in layers over the existing sub-soil on the site. Impacts upon the soil and geology of the site would, therefore, be minimal, with the risk of hydrocarbon spills from plant and machinery being mitigated by best practice operating protocols and the availability of spill kits, and the risk of processed water leaks being mitigated by the installation of self-contained systems, e.g., accompanying the toilets and canteen, and the wheel wash.
- 8.26. I conclude that no significant impacts would arise that would affect soils and geology.

(e) Water

- 8.27. The applicant addresses surface water. Insofar as the site is externally drained, this arises by means of the drainage channel, which runs along its south-eastern boundary, and which is a tributary of the Boycetown River. Downstream of the site,

¹ Refer to Figure 3.4 of the EPA’s “Guidelines on the information to be contained in EIARs”.

this tributary joins another more extensive tributary, which is the subject of water quality monitoring upstream² and downstream³ from the point of convergence. The latest figures from the former and latter monitoring stations indicate Q indices of 3 (poor) and 3-4 (moderate), respectively. This tributary is, therefore, deemed to be at risk of not achieving good water quality status, as required under the Water Framework Directive.

- 8.28. In June 2020 and August 2021, the applicant sampled water from either end of the drainage channel along the south-eastern boundary of the site.⁴ The results are shown in Tables 8-3 & 4 of the EIAR. They fall within parameters set out in the Drinking and Surface Water Regulations, and so the water can be considered to be of good quality.
- 8.29. Under Section 8.3.2 of the EIAR flooding is discussed. The OPW's flood maps do not indicate that the site is the subject of any fluvial flood risk from the Boycetown River, which passes c. 250m to the north of the site. The applicant states that the wet grassland habitat has previously been shown indicatively as at risk of pluvial flooding, although the landowner advises that this has not materialised in practice.
- 8.30. The applicant addresses groundwater. It advises that, while Kiltale is supplied by groundwater from a well, the site lies outside the zone of contribution for this well. It also advises that there are no domestic wells within 100m of the site.
- 8.31. GSI information indicates that the aquifer underneath the site is moderately productive and of local importance. This information also indicates that groundwater vulnerability is moderate to high. The applicant comments that these values reflect the composition of the site, i.e., moderately permeable lake sediments, lacustrine type soils to depths of 10m, and highly permeable sands and gravels to depths of 10m.
- 8.32. In Section 8.4.1 of the EIAR, the water table beneath the site is stated to be only 0.4 – 0.5m below ground level. The applicant expresses confidence that the proposed importation of stone and soil would not disturb groundwater, as these materials would be laid over the site. However, it does not refer to the proposed removal of

² Boycetown-Downpatrick Bridge (RS07B030100) – 2012.

³ Bridge north of Martinstown (RS07B030200) – 2018/20.

⁴ The location of these sampling points is shown on the aerial photograph of the site in Appendix 3 of the applicant's Construction Environmental Management Plan.

topsoil or to the likely depth of such soil, and the implications arising for non-disturbance of groundwater. No information from, e.g., trial pits, has been submitted in these respects.

8.33. Under the heading of “Potential effects”, the EIAR examines potential impacts during the construction, i.e., site preparation, phase, and the operational, i.e., importation, phase. These impacts could affect water quality. They are summarised below.

- The **proposed settlement ponds** would have a total volume of 3,375 cubic metres, and their depth would be lower than the water table. These ponds would be linked to swales, and they would discharge to the existing drainage channel along the south-eastern boundary of the site. Under Condition No. 2(xv) of the PA’s permission, these ponds would be revisited to ensure that their size would be “sufficient to retain and settle out the suspended materials.”

The applicant refers to wider land drainage within the development, although no scheme has been submitted. The submitted plans indicate that surface water flowing off the adjacent mounds in the centre of the site would flow downwards to the east and into the settlement ponds. Under Condition No. 2(vii) of the PA’s permission, a buffer zone of 10m would be required between the mounds and existing drainage channels around the perimeter of the site. The applicant appears to envisage swales within this zone and, presumably, between the two mounds, which would discharge to the settlement ponds. By contrast, the PA appears to consider that the buffer zone would be of sufficient width to ensure that suspended materials in surface water run-off from the mounds would not reach the drainage channels. The PA does, however, require, under this Condition No. 2(vii), the submission of a drainage scheme to minimise any impacts on groundwater would be required to be submitted.

During my site visit, I observed that the proposed on-site access arrangements would entail the need to bridge existing drainage channels. Details of how this would be done have not been submitted with the application.

- The **proposed temporary buildings and structures** would be laid out on concrete bases, which would risk the run-off of highly alkaline surface water. Good construction practice would mitigate this risk. The footprint of these buildings and structures would be less than 1% of the site area and so it would have a negligible impact upon pre-development greenfield site run-off rates.
- The **use of plant and machinery** would risk hydrocarbon spills and leaks. Again, good site management practices would mitigate this risk.
- The **proposed access road** would be formed of permeable materials, and the **proposed toilet and canteen blocks** and the **proposed wheel wash** would be served by self-contained wastewater units.

8.34. Returning to the question of site drainage, I acknowledge the following:

- The applicant's findings concerning the water quality of the drainage channel along the south-eastern boundary of the site, and of how, by extension, it does not appear to be contributing to poorer water quality in the wider River Boycetown network at present. I consider that it is imperative that this positive relationship is maintained.
- The PA's approach appears to depart from the applicant's intentions with respect to the provision of swales around as well as between the proposed mounds. I consider that the value of the settlement ponds would only be optimised if they were served by a system of swales that intercepts surface water run off from each face of the proposed mounds. A consistent 10m wide buffer zone would *prima facie* facilitate such provision.
- The high-water table poses particular challenges, especially with the proposed removal of topsoil to ensure its availability for reapplication once the mounds have been formed.

8.35. In these circumstances, I consider that a comprehensive drainage scheme for the site is needed to ensure that the applicant can demonstrate that the risk posed by suspended materials to both surface and ground waters is capable of being satisfactorily mitigated. Such a scheme should clearly explain the rationale for its components and their specifications, in particular the settlement ponds.

8.36. I conclude that the proposal would potentially pose an adverse risk to water quality over the lifetime of the project, which could be significant for both surface and ground waters, and which could overturn the apparently positive contribution of waters from the site that discharge into the Boycetown River network at present. I conclude that the applicant has submitted insufficient information to demonstrate that this risk would be capable of being satisfactorily mitigated.

(f) Climate

8.37. The applicant draws upon rainfall data from Dunsany weather station and wind data from Mullingar weather station to build-up a picture of weather patterns affecting the site. The current and proposed uses of the site do not/would not have any impact upon the climate. Nevertheless, plant and machinery would be well-maintained and not left idling to minimise the environmental impact of their usage.

(g) Air quality

8.38. The site is located within the EPA's Zone D – Rural Ireland classification for air quality. The applicant recognises the potential for dust to be generated by its proposal. It has thus undertaken a dust assessment in accordance with the NRA's document entitled "Guidelines for the treatment of air quality during the planning and construction of national road schemes."

8.39. The applicant states that the plant and vehicle movements generated by the proposal would mean that it would be analogous to a minor construction site. The extent of ensuing soiling, particulate matter of 10 microns diameter or less (PM₁₀), and vegetation effects are recognised to occur within 25m, 10m, and 10m, respectively, of working sites.

8.40. The applicant outlines several mitigation measures relating to vehicles, e.g., on-site speed limits and the use of a wheel wash, and to the watering of both stockpiles and the on-site access road to minimise the risk of dust. It also undertakes to avoid moving soils during dry and windy conditions and during high intensity rainfall.

- 8.41. The applicant would undertake dust monitoring⁵ on a monthly basis in accordance with the TA Luft/VDI 2119/Bergerhoff Method with its threshold for dust limit of 350 mg/sqm/daily.
- 8.42. The appellants express concern over the proximity of the neighbouring fruit and vegetable farm to the south of the site. I note from the landscaping and restoration plan for the site (drawing no. 190-2106) that the south-western corner of the site would adjoin this farm and that the proposed ancillary buildings and structures would be sited in this corner. Consequently, the nearest proposed mound would be set back a minimum of c. 35m from the common boundary, i.e., a distance that would ensure the avoidance of soiling. I note, too, that the direction of the prevailing wind across the site would be away from this neighbouring farm. Nevertheless, I consider that an additional air monitoring location should be sited in the south-western corner of the site to ensure that dust levels, which could affect it, can be checked in practise.
- 8.43. I conclude that, subject to the implementation of mitigation measures, the residual impact of the proposal on air quality in the surrounding area of the site would be low to negligible.

(h) Traffic

- 8.44. When operational, the proposal would work to a 5.5-day week, i.e., 07:00 – 18:00 on Mondays to Fridays and 08:00 – 14:00 on Saturdays. Operational traffic would generate 9 round trips daily and non-operational traffic would generate 4 round trips daily. The site would be accessed by means of an existing gated entrance off the L6202-3, which runs south-westwards from its junction with the R154 in the nearby village of Kiltale.
- 8.45. The applicant undertook a traffic count on Thursday 16th September 2021 of vehicles on the L6202-3. The figures recorded were adjusted to allow for traffic growth in the years 2022 and 2027, i.e., the originally envisaged start and finish dates for the project. These figures therefore capture both the level of road usage on the day of the traffic count and anticipated traffic growth in Meath.

⁵ The location of the monitoring points is shown on the aerial photograph of the site in Appendix 3 of the applicant's Construction Environmental Management Plan.

- 8.46. The applicant utilised the Junction 9 PICADY computer programme to examine the ratio of flow to capacity (RFC) of the junction formed between the L6202-3 and the site entrance/exit. The resulting RFCs indicate that this junction would operate well within capacity.
- 8.47. The applicant also examined the link capacity of the L6202-3 between the site and Kiltale in 2021 and, with and without the proposal, in 2027. Table 11-5 of the EIAR indicates that traffic generated by the proposal would only marginally reduce the capacity of this local road, i.e., its spare capacity would contract by 0.2% from 85.8% to 85.6%.
- 8.48. Under further information, the applicant agreed to improve the available northern sightline at the site exit, i.e., the boundary treatment of the adjoining residential property would be set back by 3m from the edge of the carriageway for a distance of c. 40m. Additionally, Condition No. 4 attached to the PA's permission requires that the gates at the site entrance be set back by 17m from the edge of the carriageway to provide a refuge for HGVs.
- 8.49. The appellants express concerns over whether the applicant has accounted for cumulative traffic on the L6202-3 and the suitability of the L6202-3 to accommodate HGVs. The applicant has responded by insisting that cumulative traffic has been taken into account in its above cited analyses. It draws attention to special contribution conditions previously attached to quarry permissions in the locality of the site with a view to raising funds for road widening. It also draws attention to a 30 kmph speed limit through Kiltale. One of the mitigation measures cited by the applicant would entail the erection of signs on the local road in advance of the site entrance to warn of it and attendant vehicle movements.
- 8.50. I conclude that traffic generated by the proposal would not have a significant impact on the L6202-3 and that, subject to recessed gates, an improved northern sightline, and advanced warning signs on the local road, the proposed site entrance/exit would be satisfactory.

(i) Noise and vibration

- 8.51. The applicant identified the closest noise sensitive receptors to the site (Figure 12-1), i.e., residential properties, and it undertook a baseline noise monitoring exercise at

corresponding locations (Figure 12-2) on Thursday 10th September 2020 between 12:30 and 16:00. The results of this exercise are set out in Table 12-6.

8.52. The applicant sets out noise levels associated with the following:

- Under Table 12-7, plant and machinery likely to be used in the construction of the temporary buildings and structures on the site,
- Under Section 12.5.4, additional vehicular movements during the operational phase of the proposal, and
- Under Table 12-8, plant and machinery likely to be used during the operational phase of the proposal.

8.53. The applicant's accompanying commentary on each of the above scenarios is as follows:

- Noise generated by plant and machinery at the construction stage would be of the order of 57/58 dB L_{Aeq} at the nearest residential property (A1). These levels would not exceed the existing baseline noise levels at this property, although they would exceed the existing baseline noise levels at the next nearest property (A2). However, they would, in the nature of the case, be experienced for a short duration.
- Noise generated by additional vehicular movements during the operational phase would affect the nearest property to the site entrance/exit and accompanying on-site access road. The applicant proposes to erect a 2.5m high acoustic barrier along the full depth of this property, and it predicts that, with this barrier in-situ, the busiest hour for additional vehicular movements would generate a noise level of 51 dB L_{Aeq} , i.e., less than the threshold of 55 dB L_{Aeq} recommended by the World Health Organisation for the avoidance of daytime noise nuisance.
- Noise generated by plant and machinery likely to be used during the operational phase would, once a 3m high berm has been formed along the south-eastern boundary of the site, be variously 45 dB L_{Aeq} and 46 dB L_{Aeq} at the nearest residential properties A1 and A2.

Figure 12-3 depicts noise contours from plant and machinery during the operation phase. The applicant comments that the character of this noise would be “similar to that of agricultural machinery already experienced within the vicinity of the site.”

- 8.54. The applicant summaries the residual impacts of the proposal, i.e., with all mitigation measures in place, especially the above cited acoustic barrier and berm. The only impacts of moderate significance would arise during the construction phase and at the nearest residential property to the site entrance during the busiest hour of the day for vehicular movements.
- 8.55. The applicant comments on vibrations to the effect that, due to the intervening distances between the working site and the noise sensitive receptors, any vibrations generated by the use of plant and machinery and vehicles would be imperceptible. While I concur with this commentary, I note that the nearest residential property A1 would be beside both the site entrance and the initial portion of the accompanying on-site access road. To mitigate noise and vibration from passing vehicles, the proposed acoustic barrier, cited above, should be in-situ from the outset of any construction phase.
- 8.56. I can concur with the applicant’s summary, and so I conclude that no significant noise impacts would arise.

(j) Landscape and visual

- 8.57. Under the Meath County Development Plan 2021 – 2027 (CDP), the site is shown as lying within a rural area within the County’s Central Lowlands (Landscape Character Area (LCA) 6), a landscape of high value and moderate sensitivity.
- 8.58. Under the proposal, soil and stone would be imported to the site over 5.2 hectares of its 5.6-hectare extent. Existing levels within this working area range from 71.5 – 74m OD, and under the proposal they would be raised to between 74 – 74.6m OD. It is set back from the nearest public road (L6202-3) and it is surrounded by mature hedgerows/treelines, which would be retained. Accordingly, the resulting mounds would be largely screened from external view.
- 8.59. The applicant recognises that the aforementioned mounds would entail a change in the landform of the working area. It states that, due to the retention of existing

perimeter screening, this change would be negligible, and so the character of the surrounding landscape would be unaffected.

- 8.60. Under the proposal, there would be some loss of hedgerows from within the working area and the resulting landforms would appear somewhat artificial with their steep sides and plateaued tops. I, therefore, consider that the magnitude of change would, under Table 13-2, be “small” rather than “negligible”. Nevertheless, given the moderate sensitivity of LCA 6, I do not consider that this magnitude of change would have a significant impact upon the landscape, whether considered locally or more widely.
- 8.61. The applicant recognises that, due to the location of the working area and the retention of hedgerows/treelines around its perimeter, the proposal would be largely screened from external view. It draws attention to the additional planting that would occur to strength the perimeter. I note that the proposed tree planted acoustic berm along the south-eastern boundary would provide further screening. I note, too, that under the landscaping and restoration plan (drawing no. 190-2106), the mounds would be tree planted, and so, ultimately, the working area would be a small woodland. The applicant concludes that there would be no change to external views of the site. Again, I consider that this is a little overdrawn. However, any change would ultimately enhance such views.
- 8.62. I conclude that the proposal would not have significant impacts on the character of the landscape or the visual amenities of the area.

(k) Archaeology/cultural heritage

- 8.63. The applicant reports that, while there are no recorded monuments on the site, there are two of recorded monuments 200m to the west of the site, i.e., two ring ditches (ME041-058 & 061). The applicant also reports that there are no protected structures or buildings/structures identified in the NIAH either on the site or within its vicinity.
- 8.64. The applicant’s archaeologist recommends that archaeological monitoring of any top-spoil stripping be carried out by a suitably qualified archaeologist. The DoHLGH advises that a condition to this effect be attached, something which the PA duly did under Condition No. 12 attached to its permission.

Interactions

- 8.65. Table 15-1 of the EIAR summarises the predicted interactions between the impacts assessed above in my EIA. The applicant concludes that these interactions would not result in any “amplification effect”.
- 8.66. The appellants draw attention to a potential safety risk posed by the proposed settlement ponds once the project has been completed. I consider that this risk would be capable of being mitigated by the erection of a suitable fence around these ponds to deter any access to them.

Reasoned conclusion

- 8.67. Having regard to the examination of environmental information contained above, and in particular to the EIAR, the submissions of the Planning Authority, the appellants, and the observer, I consider that the main significant direct and indirect effects of the proposal on the environment are:
- The loss of the wet grassland with its attendant biodiversity interest would be permanent. Potential mitigation would arise from the proposed settlement ponds and system of swales envisaged by the applicant. In the absence of a detailed scheme for these items, comment upon any residual impact would be premature, and
 - The proposal would potentially pose an adverse risk to water quality over the lifetime of the project, which could be significant for both surface and ground waters, and which could overturn the apparently positive contribution of waters from the site that discharge into the Boycetown River network at present.
- 8.68. Significant direct and indirect effects would not arise in relation to land, population and health, soils and geology, climate, air quality, traffic, noise and vibration, landscape and visual, and archaeological/cultural heritage.

9.0 **Appropriate Assessment (AA)**

Compliance with Article 6(3) of the EU Habitats Directive

- 9.1. The Habitats Directive deals with the Conservation of Natural Habitats and of Wild Fauna and Flora throughout the European Union. Article 6(3) of this Directive requires that any plan or project not directly connected with or necessary to the management of the site but likely to have had a significant effect thereon, either individually or in combination with other plans or projects shall be subject to appropriate assessment of its implications for the site in view of the site's conservation objectives. The competent authority must be satisfied that the proposal would not adversely affect the integrity of the European site before planning consent can be given.

Screening the need for appropriate assessment

- 9.2. The applicant has submitted a screening report for appropriate assessment as part of its NIS, which is entitled "Davin Plant Hire: Boycetown Land Reclamation NIS", and which is dated November 2021.

- 9.3. The screening report was prepared in line with current best practice guidance and provides a description of the development and identifies European sites within a possible zone of influence of the development. This report concludes as follows:

One European Site, River Boyne and Blackwater SAC, based on its conservation objectives, potential source pathways between the sites and the proposed site development works, and by applying the precautionary principle, it was determined that the proposed development, alone or in-combination with other plans or projects could have significant effects on this European Site. These could not be ruled out without the provision of mitigation measures...

- 9.4. Having reviewed the documents and submissions, I am satisfied that the information allows for a complete examination and identification of any potential significant effects of the development, alone, or in combination with other plans and projects on European sites.
- 9.5. The applicant provides a description of the project on Page 7 of its screening report. This description states the following:

...the importation of inert excavation spoil comprising natural materials of clay, silt, sand, gravel or stone for the purposes of land reclamation.

- 9.6. The applicant also provides a description of the site on Pages 7 & 8 of its screening report, which draws attention its area of 5.6 hectares, and its undulating landform, with higher areas being underlain by granular deposits. It also draws attention to the presence of a drainage channel to the east, which flows into the Boycetown River, a tributary of the River Boyne.
- 9.7. Taking account of the characteristics of the development in terms of its location and the scale of operations, the following issues are considered for examination in terms of implications for likely significant effects on European sites: "...uncontrolled emissions to surface water or groundwater (impacting sensitive aquatic receptors)."
- 9.8. The site is 5.2 km upstream from the European sites, i.e., River Boyne and River Blackwater SAC (002299) and River Boyne and River Blackwater SPA (004232).

River Boyne and River Blackwater SAC

- 9.9. The qualifying interests and conservation objectives, i.e., M – maintain their favourable conservation condition, or R – restore their favourable conservation condition, are listed below.

- *Alkaline fens [7230] – M*
- *Alluvial forests with *Alnus glutinosa* and *Fraxinus excelsior* (Alno-Padion, *Alnion incanae*, *Salicion albae*) [91E0] – R*
- *Lampetra fluviatilis (River Lamprey) [1099] – R*
- *Salmo salar (Salmon) [1106] – R*
- *Lutra lutra (Otter) [1355] – M*

River Boyne and River Blackwater SPA

- 9.10. The qualifying interest is:

- *Kingfisher (*Alcedo atthis*) [A229]*

The conservation objective is "To maintain or restore the favourable conservation of the bird species".

9.11. During the project, "...uncontrolled emissions to surface water or groundwater (impacting sensitive aquatic receptors)" could significantly effect the conservation objectives of qualifying interests due to a deterioration in water quality. These qualifying interests would be as follows:

- In the River Boyne and River Blackwater SAC: Salmon and Otter, and
- In the River Boyne and River Blackwater SPA: Kingfisher.

9.12. In-combination effects from other development sites could potentially arise.

9.13. No measures designed or intended to avoid or reduce any harmful effects of the project on a European site have been relied upon in this screening exercise.

9.14. The development was considered in light of the requirements of Section 177U of the Planning and Development Act 2000, as amended. Having carried out screening for appropriate assessment of the project, it has been concluded that the project either individually or in combination with other plans and projects could have a significant effect on European sites Nos. 002299 and 004232, in view of their conservation objectives, and appropriate assessment is therefore required.

The NIS

9.15. The application included a NIS, which is entitled "Davin Plant Hire: Boycetown Land Reclamation NIS", and which is dated November 2021. The NIS examines and assesses potential adverse effects of the proposed development on the following European sites:

- River Boyne and River Blackwater SAC
- River Boyne and River Blackwater SPA

9.16. The NIS was prepared in line with current best practice guidance, and it concluded that "...it can be objectively concluded that with the successful implementation of mitigation measures...the proposed development, either alone or in-combination with other plans or projects will not result in significant adverse effects to the integrity of any European Sites, in view of their conservation objectives and qualifying interests. The AA process is therefore not required to proceed further to Stage 3 or 4. Particular reference is made to the River Boyne and River Blackwater SAC/SPA on which this stage of the AA focused."

9.17. Having reviewed the NIS, I am satisfied that the information allows for a complete assessment of any adverse effects of the development on the conservation of the following European sites alone, or in combination with other plans and projects:

- River Boyne and River Blackwater SAC
- River Boyne and River Blackwater SPA

Appropriate assessment of implications of the proposed development on each European site

9.18. The following is a summary of the objective scientific assessment of the implications of the project on the qualifying interest features of the European sites using the best scientific knowledge in the field. All aspects of the project which could have resulted in significant effects are assessed, and mitigation measures designed to avoid or reduce any adverse effects are considered and assessed.

9.19. The following sites are subject to appropriate assessment:

- River Boyne and River Blackwater SAC
- River Boyne and River Blackwater SPA

The qualifying interests and conservation objectives for these sites are set out above under my screening exercise.

9.20. The main aspects of the proposed development that could adversely affect the conservation objectives of European sites are, during the project, "...uncontrolled emissions to surface water or groundwater (impacting sensitive aquatic receptors)" could significantly effect the conservation objectives of qualifying interests due to a deterioration in water quality. Under Section 6.3.2 of the NIS, the applicant elaborates upon this adverse affect as follows:

The proposed land reclamation in Boycetown will occur 5.2km from the aquatic habitats of the River Boyne. Inappropriate silt management could lead to an increase in the sediment load, especially during periods of wet weather. An increase in the siltation levels of the river could result in the smothering of fish eggs, an increase in the mortality rate in fishes of all ages, a reduction in the amount of food available for fish and the creation of impediments to the movement of fish. This would lead to a deterioration in the ecological status of the river.

9.21. The qualifying interests that could be affected by a deterioration in water quality would be as follows:

- In the River Boyne and River Blackwater SAC: Salmon and Otter, and
- In the River Boyne and River Blackwater SPA: Kingfisher.

9.22. At the appeal stage, the appellants grounds of appeal are accompanied by a “Supporting Ecological Statement”, within which their ecologist reports 3 no. sightings of a kingfisher in the Boycetown River to the north of the site⁶ on 8th & 11th July 2022. Two of these sightings were of a kingfisher carrying a small fish into habitat suitable for nesting, i.e., behaviour consistent with breeding.

9.23. The ecologist advises that the kingfisher is, under the Birds Directive, an Annex I bird species, which is:

- *In danger of extinction,*
- *Vulnerable to specific changes in its habitat,*
- *Considered rare because of small populations or restricted local distribution, and*
- *Requiring particular attention for reasons of the specific nature of habitat.*

He observes that “Collapses in local fish populations could lead to a local extinction of kingfishers.”

9.24. The ecologist also describes the behaviour of kingfishers. They can forage over areas of upwards of 12km in length. Consequently, the kingfisher sighted on the Boycetown River would be likely to interact with kingfishers in the River Boyne and River Blackwater SPA, some 5km downstream.⁷

9.25. The applicant’s ecologist advises that despite several visits to the site no sightings of kingfishers were made. He emphasises that, under the proposal, the existing drainage channel to the east of the site would be retained as it is, and so, insofar as its embankments may contribute to habitat for the kingfisher, this would be unchanged.

⁶ Figure 1 of the Supporting Ecological Statement shows the locations of these sightings. It also identifies suitable nesting areas along the Boycetown River.

⁷ A map of the River Boyne and River Blackwater SPA in the NPWS document entitled “Assessment of the distribution and abundance of Kingfisher *Alcedo atthis* and other riparian birds on six SAC river systems in Ireland” shows probable kingfisher territories adjacent to the convergence of the Boycetown River with the River Boyne.

- 9.26. I note the proximity of the sightings to the site, i.e., the Boycetown River runs some 250m or more to the north of the site. I note, too, that these sightings included ones of a kingfisher carrying a small fish. Clearly, as recognised by the applicant above, the water quality of this River is of importance for sustaining aquatic life upon which the kingfisher depends. Any diminution in this quality could have adverse repercussions for such life, and hence the protected bird species in question.
- 9.27. The applicant's NIS sets out a series of existing mitigation measures, which would address the factors, which could adversely affect the integrity of the identified European sites. These mitigation measures are set out in Section 6.3.2, and they can be summarised as follows:
- A 5m buffer would separate the works from the existing drainage channel, an earth berm would be formed within this buffer, and water gathering in the buffer would be directed to settlement ponds,
 - Hydrocarbons would not be stored on-site and refuelling would be undertaken away from site drains/ponds, i.e., at a distance of over 10m from the same,
 - Stockpiles would be minimised, and they would be sited away from site drains/ponds,
 - Exposed ground left in-situ for extended periods would be seeded with soil-binding grasses, and
 - On completion of the project the drainage channel would be fenced, and a separate water supply for livestock would be provided.
- 9.28. The applicant expresses confidence that, with the above cited mitigation measures in place, no residual impacts would arise. However, the applicant has not submitted a comprehensive and self-evidently coherent drainage scheme for the site, and so it has not demonstrated that such a scheme would be capable of satisfactorily mitigating the threat of siltation of the drainage channel. Accordingly, the water quality of this channel could deteriorate and with it the water quality in the nearby Boycetown River, which it discharges into. The importance of maintaining the water quality of this River is clear from the above reported sightings of a kingfisher and the likelihood that this kingfisher interacts with kingfishers in the downstream River

Boyne and River Blackwater SPA, which has the kingfisher as its sole qualifying interest.

- 9.29. In-combination effects are considered by the NIS. Recent development in the area surrounding the site has been for mainly for residential use. Such development is served by modern WWTs, which are maintained and subject to possible inspection. Cumulative impacts would not arise.
- 9.30. In the light of the foregoing considerations, I am unable to ascertain with confidence that the project would not adversely affect the integrity of the River Boyne and River Blackwater SAC, and the River Boyne and River Blackwater SPA.
- 9.31. The project has been considered in light of the assessment of the requirements of Sections 177U and 177V of the Planning and Development Act 2000, as amended.
- 9.32. Having carried out screening for appropriate assessment, it was concluded that it may have a significant effect on the River Boyne and River Blackwater SPA (004232). Consequently, an appropriate assessment is required of the implications of the project on the qualifying feature of this site in light of its conservation objective.
- 9.33. On the basis of the information provided with the application and appeal, including the NIS, and in light of the assessment carried out above, I am not satisfied that the proposed development individually, or in combination with other plans or projects would not adversely affect the integrity of European Site No. 004232, in view of the site's conservation objective. In such circumstances the Board is precluded from granting approval/permission.

This conclusion is based on:

- In the absence of a comprehensive and self-evidently coherent drainage scheme for the site, reasonable doubt exists as to the capability of the project to avoid causing a deterioration in water quality within an existing drainage ditch, which discharges to the Boycetown River, a tributary of the River Boyne.
- The kingfisher is the qualifying interest of the River Boyne and River Blackwater SPA, and so a deterioration in water quality would be likely to adversely affect aquatic life upon which this bird species depends. A reduction

in the availability of its food source would adversely affect this species and hence the integrity of the SPA.

10.0 Recommendation

That permission be refused.

11.0 Reasons and Considerations

1. Having regard to the stated land reclamation purpose of the proposal, the applicant has provided insufficient information to demonstrate that both the extent and the height of the proposed mounds, which would be formed by imported soil and stone on the site, would be necessary to achieve this purpose. In these circumstances, to grant permission would be premature, as it could lead an excessive scale of development, which would be contrary to the proper planning and sustainable development of the area.
2. Having regard to INF POL 32 and INF OBJ 29 of the Meath County Development Plan 2021 – 2027, it is considered that the applicant has provided insufficient information to demonstrate that the proposal would be capable of being undertaken without a significant deterioration in water quality in both groundwater underneath the site and surface water in drainage channels that serve the site. In these circumstances, to grant permission would be premature, as it could lead to such deterioration, which would contravene INF POL 32 and INF OBJ 29 of the County Development Plan and so be contrary to the proper planning and sustainable development of the area.
3. On the basis of the information provided with the application and appeal, including the NIS, and in light of the appropriate assessment carried out, the Board is not satisfied that the proposed development individually, or in combination with other plans or projects would not adversely affect the integrity of European Site No. 004232, in view of the site's conservation objective. In such circumstances the Board is precluded from granting approval/permission.

This conclusion is based on:

- In the absence of a comprehensive and self-evidently coherent drainage scheme for the site, reasonable doubt exists as to the capability of the project to avoid causing a deterioration in water quality within an existing drainage ditch, which discharges to the Boycetown River, a tributary of the River Boyne.
- The kingfisher is the qualifying interest of the River Boyne and River Blackwater SPA, and so a deterioration in water quality would be likely to adversely affect aquatic life upon which this bird species depends. A reduction in the availability of its food source would adversely affect this species and hence the integrity of the SPA.

I confirm that this report represents my professional planning assessment, judgement and opinion on the matter assigned to me and that no person has influenced or sought to influence, directly or indirectly, the exercise of my professional judgement in an improper or inappropriate way.

Hugh D. Morrison
Planning Inspector

22nd January 2024

Appendix 1 - Form 1

EIA Pre-Screening

[EIAR not submitted]

An Bord Pleanála Case Reference	ABP-314071-22		
Proposed Development Summary	The importation of 200,000 tonnes of top-soil, soil, and stone over 5 years for the purpose of land reclamation.		
Development Address	Boycetown, Co. Meath		
1. Does the proposed development come within the definition of a 'project' for the purposes of EIA? (that is involving construction works, demolition, or interventions in the natural surroundings)		Yes	X
		No	No further action required
2. Is the proposed development of a class specified in Part 1 or Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) and does it equal or exceed any relevant quantity, area or limit where specified for that class?			
Yes	x	Class 11(b) of Part 2 of Schedule 5	EIA Mandatory EIAR required
No			Proceed to Q.3
3. Is the proposed development of a class specified in Part 2, Schedule 5, Planning and Development Regulations 2001 (as amended) but does not equal or exceed a relevant quantity, area or other limit specified [sub-threshold development]?			
		Threshold	Comment (if relevant)
		N/A	Conclusion
No			No EIAR or Preliminary Examination required
Yes		Class/Threshold.....	Proceed to Q.4

4. Has Schedule 7A information been submitted?

No		Preliminary Examination required
Yes		Screening Determination required

Inspector: _____

Date: _____